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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/500,016	04/18/2005	Ian Michael Hosking	051862/340763	9080
826 7590 08/07/2009				
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000				
EXAMINER				
OKEKE, ONYEDIKA C				
ART UNIT		PAPER NUMBER		
2425				
MAIL DATE		DELIVERY MODE		
08/07/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/500,016

Applicant(s)

HOSKING ET AL.

Examiner

Dika C. Okeke

Art Unit

2425

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 8, 34, 35 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-33 and 36-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/888)
- Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 8 and 34, 35, 41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species and invention, there being no allowable generic or linking claim. Applicants' timely traversed the restriction (election) requirement in the reply filed on 01 May, 2009.

Applicants' traversal of the species classification of claims 9, 21 and 26, on the grounds that the format in which the captions are output to the user does not have any relationship to how the synchronization signals are carried by the presentation and the example presented therewith; are persuasive. Therefore, the species classification of claims 9, 21 and 26 are withdrawn. Claims 1-7, 9-33 and 36-40 are hereby pending in the application.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

3. Claim 36 is objected to because of the following informalities: the word "the" at the beginning of the claim is improper. Examiner notes that it should have recited "a", as "the" makes the claim to lack antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 18 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-13, 19-31, 33 and 36-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Zwaneveld et al (CA 2129925 A1, referred hereinafter as 'Zwaneveld').

Regarding claim 1, Zwaneveld teaches a captioning system for providing captions for a presentation to a user, the captioning system comprising: a caption store (storage element 11) operable to store one or more sets of captions each set being associated with one or more presentations and each set comprising a plurality of captions for payout at different timings during the associated presentation (page 9,

line 18 – page 10, line 21; *for display cue stamps comprises a display time stamp, each display time stamp comprising a first time and second time respectively marking the beginning and the end of the display of a subtitle*); and a user device (*device capable of being used by a person; broadly reads on any device operated by a human*) having:

a memory operable to receive and store at least one set of captions for a presentation to be made to an associated user, from said caption store (processor element 14; *for the processor receives and operably stores the captions for a presentation to the display/user*);

a receiver operable to receive synchronisation information (*display cue stamp information*) defining the timing during the presentation at which each caption in the received set of captions is to be output to the user (page 12, line 25 – page 13, line 3; page 11, lines 1-6; *for the display time stamp information denotes the timing at which the caption is to be output to the user to synchronize with the audio; for the processor element 14 inherently has a receiver because it receives data from the storage device*);

a caption output circuit operable to output to the associated user, the captions in the received set of captions (processor element 14, display 18, 19; *for an appropriate screen displays the caption received; it is inherent that the device would have a caption output circuit since it displays captions or subtitles to the user*); and

a timing controller responsive to said received synchronisation information and operable to control said caption output circuit so that said captions are output to said user at the timings defined by said synchronisation information (page 30, lines 4-26; *it is inherent that a timing controller exists in the user device for the subtitles to be synced to the*

proper audio and displayed at the appropriate time denoted by the display time cues).

Regarding claim 2, Zwaneveld further teaches the system according to claim 1, wherein said captions include text *(for text subtitles are displayed).*

Regarding claim 3, Zwaneveld teaches the system according to claim 2, wherein said captions include text for any dialogue in the presentation *(for the subtitles are text of corresponding audio of a presentation displayed).*

Regarding claim 4, Zwaneveld teaches the system according to claim 2, wherein said caption output circuit is operable to output said captions to a display device associated with the user device for display to the user *(display 19; for the subtitles are displayed unto the user).*

Regarding claim 5, Zwaneveld teaches the system according to claim 4, wherein said captions include formatting information for controlling the format of the text displayed on said display *(page 14, lines 11-13, 24-27; for the subtitles have certain formats which can be altered).*

Regarding claim 6, Zwaneveld teaches the system according to claim 4, wherein each caption includes duration information defining the duration that the caption should be displayed to the user *(page 11, lines 1-6; for the display cue stamp comprises display time stamp which denotes when the subtitles are to be shown. The display time stamp further denotes a beginning and the end of the display of a subtitle – reading on claimed duration of caption display).*

Regarding 7, Zwaneveld teaches the system according to claim 4, wherein said caption includes timing information defining the time at which the caption should be displayed to the user during the presentation (page 11, lines 1-6; *for display time cues include display time marks denoting the timing information – beginning and end – of the subtitles*).

Regarding claims 9-11, Zwaneveld teaches the system according to claim 1, wherein said presentation: includes audio, includes video, is a film (page 25, lines 6-10+; page 30, lines 6-13).

Regarding claim 12, Zwaneveld teaches the system according to claim 1, wherein said caption store is formed in a memory card which is insertable into said user device and wherein said user device includes a reader for reading captions from said memory card when inserted therein (page 17, lines 6-12; page 29, lines 11-17; *for the subtitle text files are stored in a memory medium – RAM, CD-Rom, floppy disk – which are portable; the caption storage element 11 can be embodied in a portable memory medium and sent to the user device – processing equipment – which would read/process it and send it to a display element*).

Regarding claim 13, **note the discussion on claim 12.** Zwaneveld teaches the system according to claim 1, wherein said caption store is provided in a computer system (page 17, lines 6-12; *for the subtitle text files are stored in a memory medium – RAM, CD-Rom, floppy disk – which are noted to be storage mediums of a computer*) and wherein said user device includes means for communicating with said caption store (page 30,

lines 13-17; *for the user device communicates with the storage device containing the subtitle data).*

Regarding claim 19, Zwaneveld teaches the system according to claim 1, wherein said synchronisation information defines expected time points for one or more predetermined portions of the presentation (*for the display time cues and time stamp indicates points denoting the portions of the presentation to output subtitle information).*

Regarding claim 20, Zwaneveld teaches the system according to claim 19, wherein said user device comprises a monitoring circuit operable to monitor said presentation to identify the actual time points of said one or more predetermined portions (*for a "predetermined" portion of presentation can simply be the actual portions of the presentation that the user desires to receive closed caption or subtitle data; hence the actual time points of a predetermined portion is known by the user device because it is the device that user utilizes to request the closed caption or subtitle information. Hence giving this the broadest interpretation, the monitoring circuit in this case merely checking or tracking the actual time in the presentation in which the user requested to receive caption information*) and wherein said timing controller is responsive to the difference between the actual timings and the expected timings to control the outputting of the captions by said caption output circuit (*for the display time stamps and cue identify the expected timing to output the caption information; the responsiveness of said timing controller to the difference between the actual timing and the expected timing is merely a form of error correction of synchronization signals error. Official Notice is hereby taken to the fact that error correction is well known concept in the*

art).

Regarding claim 21, Zwaneveld teaches the system according to claim 20, wherein said predetermined portions of said presentation correspond to portions of audio of the presentation and wherein said monitoring circuit includes a microphone for sensing the audio of the presentation (figs. 2-3, audio sensor element 8, 12; page 25, lines 16-20; page 26, lines 2-6; page 30, lines 4-12; *for audio of the presentation is captured by the audio sensor element. A microphone is a sound reader and can be used to sense the magnetic flux from a sound recording*) and a comparator for comparing the received audio with the expected portions of the audio defined by said synchronisation information (*for the received audio is processed and compared with the matching audio cue and time stamp to correlate the associated subtitle information*).

Regarding claim 22, Zwaneveld teaches the system according to claim 20, wherein said user device has an acquisition mode of operation in which an output of said monitoring circuit is compared with said predetermined points defined by said synchronisation information to identify a current position within said presentation and a tracking mode of operation in which the output of said monitoring circuit is compared with a current predetermined portion defined by said synchronisation information (page 30, lines 13-22; *for the output of the monitoring circuit is merely the time the user requests sets course to request for a subtitle, which is compared to the syncing display time stamp. Hence, the acquisition and tracking modes of operation are merely met by the comparison of audio signal signatures and associated subtitles reputedly each time the user requests subtitle*

information by 'collecting' an audio sample of the desired portion and sending it to the processor element 14).

Regarding claim 23, see the discussion on claim 22.

Regarding claim 24, Zwaneveld teaches the system according to claim 1, wherein said receiver in said user device is operable to receive said synchronisation information from said caption store (fig. 3; page 12, line 25 – page 13, line 3; page 17, lines 6-12; *for the sync info or time cue stamps together with the subtitle info are stored in the storage device 11, which forwards them to the processor equipment 14).*

Regarding claim 25, Zwaneveld teaches the system according to claim 1, wherein said synchronisation information is embedded within said presentation and wherein said user device includes a monitoring circuit operable to monitor the presentation and to extract said synchronisation information therefrom (page 12, line 25 – page 13, line 3; page 30, lines 10-25).

Regarding claim 26, Zwaneveld teaches the system according to claim 25, wherein said synchronisation information is embedded within the audio of said presentation (page 12, line 25 – page 13, line 3).

Regarding claim 27, Zwaneveld teaches the system according to claim 25, wherein said synchronisation information comprises synchronisation codes occurring at different timings during the presentation (page 12, line 25 – page 13, line 3; *for synchronization codes are inherently embedded in the audio of the presentation to produce the synchronization information).*

Regarding claim 28, Zwaneveld teaches the A system according to claim 27, wherein each synchronisation code is unique to uniquely define the position in the presentation (*for different or multiple display timings, it is noted that the synchronization information would also be different accordingly*).

Regarding claim 29, Zwaneveld teaches the system according to claim 1, wherein said caption store includes a plurality of sets of captions for a plurality of different presentations (*for it is noted that the system provides subtitle information for different movies and films*).

Regarding claim 30, Zwaneveld teaches the system according to claim 29, wherein said user device is operable to capture a portion of said presentation and is operable to transmit the captured portion to said caption store and when said caption store is operable to use said captured portion of the presentation to identify the presentation being made and to transmit the associated set of captions for the identified presentation to said user device (page 30, lines 4-26).

Regarding claim 31, Zwaneveld teaches the system according to claim 30, wherein said user device is operable to process the captured portion of the presentation to extract data characteristic of the captured portion and is operable to transmit said characteristic data to said caption store, and wherein said caption store is operable to use said characteristic data to identify the presentation being made and to transmit the associated set of captions for the identified presentation to the user device (page 30,

lines 4-26; *for the extracted characteristic data is audio signature of the captured portion of the presentation*).

Claim 33 is analyzed as the user device discussed in claim 1.

Regarding claim 36, Zwaneveld teaches a computer readable medium storing computer executable instructions for causing a general purpose computing device to operate as the user device of claim 1 (page 30, lines 10-13; *for the user device can be a computer with a processor*).

Claim 37 is analyzed as a method of claim 1.

Regarding claim 38, see claim 1. Examiner notes that the recitation "the or each" is intended to signify two alternatives or options; therefore claim 1 meets the "the" alternative.

Regarding claim 39, see claim 1. The display cue time marks indicates the timing for the presentation of subtitle data and audio synchronization information synchronizes the audio with the proper subtitle (page 12, line 25—page 13, line 3).

Regarding claim 40, see claim 1.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zwaneveld in view of Warren (US Pub No. 2003/0153355, referred hereinafter as 'Warren').

Regarding 14, Zwaneveld teaches the system according to claim 13; except, wherein said computer system is remote from said user device and wherein said user device has an associated communication module for communicating with said remote computer system.

Warren teaches wherein said computer system is remote from said user device and wherein said user device has an associated communication module for communicating with said remote computer system (para. [0003], [0006] and [0009]; *for the phone, which can be deemed a user device communicates wirelessly with a computer remote from it. It is obvious that there is a communication module resident in the phone that enables it to communicate wirelessly with a computer*).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Zwaneveld and Warren – to enable the caption storage (computer) remotely communicate with a user device (phone) – for the benefit of allowing for a remote access of subtitled data stored in the computer.

Regarding claim 15, Warren further teaches a system according to claim 14, wherein said user device includes a housing and wherein said communication module is provided within said housing (fig. 1, mobile phone 32; *for it is well known that a mobile phone includes a housing and it is obvious that the communication module or transceiver*

module is housed inside a mobile phone).

Regarding claims 16 and 17, see the discussion on claim 14. The mobile phone communicates with the computer wirelessly.

Regarding claim 18, see claim 17. It is noted that a mobile telephone is a portable computing device.

10. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zwaneveld in view of Ogasawara (6,512,919, referred hereinafter as 'Ogasawara').

Regarding claim 32, Zwaneveld teaches the system according to claim 1, wherein said presentation is given at a venue (*for a movie or film theatre is a venue. Further, venue broadly reads on any location*).

However, Zwaneveld does not explicitly teach wherein said venue is operable to provide an activation code, wherein said user device is operable to receive said activation code and further comprises a inhibitor for inhibiting the operation of said caption output circuit unless said user device has received said activation code.

Ogasawara teaches a venue operable to provide an activation code, wherein said user device is operable to receive said activation code (col. 3, lines 6-17; col. 9, lines 6-14; 33-42; *for the purchase transaction program is downloaded from the server to the mobile telephone, thereby reading on an activation code, because without the transaction program the videophone cannot function as a personal electronic shopping system*) and further comprises a inhibitor for inhibiting the operation of said caption output circuit unless said user device has received said activation code (for without the purchase transaction program

being sent to it, the phone can't function as a shopping system; hence it is obvious that the phone has an 'inhibitor' or access denial mechanism).

Therefore, it would have been obvious to an ordinary skilled artisan to combine the teachings of Zwaneveld and Ogasawara – to modify the processor element to include an access mechanism by receiving a program or access code to access the caption store - for the benefit of ensuring a privacy and proper identification of the user.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
12. Van Thong et al (US Patent No. 6,442,518).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dika C. Okeke whose telephone number is (571)270-5367. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. to 7:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian T. Pendleton can be reached on (571)272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dika C. Okeke/
Examiner, Art Unit 2425

/Brian T. Pendleton/
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